MOTION FILED

DEC 27 1985

No. 85-429
No. 85-430

IN THE
Supreme Court of the United States
OCTOBER TERM, 1985

EXXON CORPORATION, *ET AL.*,
Petitioners,

v.

UNITED STATES OF AMERICA, *ET AL.*,
Respondent.

On Petition for a Writ of Certiorari to the Temporary Emergency Court of Appeals of the United States

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

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The American Petroleum Institute (API) respectfully moves this Court for leave to file the accompanying brief in this case as *amicus curiae*. The consent of the attorneys for both petitioners and respondent herein have been obtained. In addition, the consent of the attorneys for 11 other parties herein has been obtained, but the attorneys for 12 parties herein refused to consent to the filing of a brief by API as *amicus curiae*. The remaining parties have not responded to API's request for consent. Copies of all letters have been logged with the Clerk.

The applicant, American Petroleum Institute (API), has an interest in the case in that API is a trade association

representing approximately 215 member companies and 8,000 individual members. API's members are engaged in all facets of the petroleum industry including the production, refining, and marketing of crude oil and refined petroleum products. Throughout the time periods involved in this case, API members were subject to the price and allocation laws and regulations adopted by the Congress and the Department of Energy (and its predecessor agencies) governing the sale and distribution of crude oil and petroleum products.

API members have a vital and legitimate interest in the remedy entered and affirmed by the lower courts disposing of almost $2 billion for alleged overcharges associated with the sale of crude oil produced from the Hawkins Field. By affirming the district court's award of all alleged overcharges to the states in accordance with Section 155 of the Furthering Continuing Appropriations Act of 1983, commonly known as the "Warner Amendment", Pub.L. No. 97-377, 96 Stat. 1830, 1919 (1982), the Temporary Emergency Court of Appeals (TECA) categorically and arbitrarily denied every member of the petroleum industry, including many API members, their due process rights to demonstrate they were entitled to receive a portion of the alleged overcharges. API files this *amicus curiae* brief asking the Court to rectify this unfair and unprecedented denial of the legal rights of its members which unquestionably affects their economic interests.

Although the briefs of the petitioners herein in the Temporary Emergency Court of Appeals argue that the remedy chosen was in conflict with law, API believes that the decisions of the courts below raise broader questions about the general restitutionary powers of the federal

courts. If applicant's argument is approved by this Court, the decisions of the courts below must be reversed.

Respectfully submitted,

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December 26, 1985